REMARKS

Claims 22-51 are pending in the present application. Claims 28, 36, 39-41, 44, 45 and 47 are withdrawn. Claims 22-27, 29-35, 37, 38, 42, 43, 46 and 48-51 are rejected. Claims 25, 26 and 38 are objected to.

By virtue of this response, claims 22, 23, 25-27, 41, and 45-47 have been amended and claim 52 is added. After entry of these amendments, claims 22-52 will be pending. No new matter has been added by the amended claims. Support for the claim amendments are provided in detail below.

With respect to all amendments and cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional applications.

Claim Amendments

Claim 22 has been amended to recite a composition comprising a plurality of a conjugate formable by conjugation of at least two analog molecules and a chemically defined valency platform molecule.

The newly claimed feature of a conjugate formable by the conjugation of at least two analog molecules and the chemically defined valency platform molecule is fully supported by the specification as a whole, which describes a variety of conjugates formed by such conjugation. For example, page 19, lines 29-32, discusses the platform molecules providing a polyfunctional substrate to which biological molecules may be attached covalently. This amendment is made to clarify that the conjugates of the invention may be formed by such conjugation, but are not limited to how they are formed.

The amendment of the last line of the claim from "molecules have" to "molecule has" was made to be consistent with the singular form of valency platform molecule earlier in the claim.

Claim 23 has been amended to remove one member of the Markush group. The newly added claim 52 is suppported by claim 23, and is claiming the removed member of the Markush group in a separate claim. Claim 52 is readable on the elected species.

Claim 25 has been amended to remove the language "comprising conjugates", as this limitation is already present in claim 22.

Claim 26 has been amended to change "analog molecule" to "analog molecules", to be consistent with the parent claim.

Claim 27 has been amended to change "molecules are" to "molecule is" to be consistent with the singular form of valency platform molecule in the parent claim.

Claims 41 and 45-47 have been amended to correctly recite the "composition" of the parent claim rather than the "conjugate".

Applicants would like to thank the Examiner for removing the restriction requirement with respect to Group 50 and Group 84 wherein in the anolog is a peptide (Group 7) and rejoining with Group 14. Applicants respectfully maintain the traversal of the remaining restriction requirements for the reasons stated in the Response mailed on March 26, 2004. Applicants would also like to point to U.S. Patents 5,268,454 and 6,060,05, which have claims to conjugates having analog molecules similar to those of the pending claims. There were no similar restriction requirements related to the analog molecules in these, and the Examiner in these patents was able to search and examine the full breadth of the claims. Also, as generic Claim 22 links all pending claims, and claims 22, 48, 49, and 50 are linked as product, process of using and process of making, should any of the linking claims or the generic claim be found allowable, the Manual of Patent Examining Procedure requires withdrawal of the restriction requirement and examination of the remaining linked claims.

REJECTIONS UNDER 35 USC 112, FIRST PARAGRAPH

Claims 22-27, 29-35, 37, 38, 42, 43, 46 and 48-51 are rejected under 35 USC 112, first paragraph, because the specification allegedly does not reasonably provide enablement for the entire scope of the claims.

Applicants' invention provides a composition of a plurality of a conjugate that can be formed by conjugating

(a) at least two molecules that are analogs of an immunogen, and

(b) a chemically defined valency platform molecule.

These conjugates are an improvement over conjugates for which the assignee has obtained patents. U.S. Patents 5,268,454 and 6,060,056, which are issued to the assignee of the presently pending claims, claim conjugates and methods of making as follows:

> U.S. 5,268,454 claim 1. A method for making a conjugate useful for inducing specific B cell anergy to an immunogen implicated in an antibody-medicated pathology, the conjugate comprising a nonimmunogenic biologically stable polymer and an analog of the immunogen wherein (i) the analog binds specifically to B cells to which the immunogen binds specifically and (ii) the conjugate lacks a T cell epitope, comprising the steps of:
> (a) convalently bonding the analog of the immunogen lacking T cell epitopes to a nonimmunogenic polymer to form a conjugate; and
> (b) separating the conjugate from the reaction mixture.

> U.S. 6,060,056 claim 1. A conjugate for inducing specific B cell anergy to a T cell-dependent immunogen implicated in an antibody-modiated pathology in an individual suffering from said pathology comprising a nonimmunogenic valency platform molecule and at least two analog molecules of the immunogen wherein (a) the analog molecules bind specifically to surface antibody on B cells to which the T cell-dependent immunogen binds specifically and (b) the conjugate lacks T cell epitopes capable of activating T cells in said individual, and further wherein the analog molecules are selected from the group consisting of peptides, polypeptides, proteins, glycoproteins, lipoproteins, carbohydrates, lipids, and lipopolysaccharides.

These patents disclose analog molecules conjugated to valency platform molecules that are not necessarily chemically defined. The pending claims are to these same analog molecules conjugated to improved valency platform molecules that are chemically defined.

Applicants would again like to point out U.S. patents 5,268,454 and 6,060,056, discussed above. The Examiner in these cases determined that the analog molecule is enabled. The disclosure of U.S. Patent 6,060,056 is incorporated by reference into the present application, and the

description of the analog molecules is essentially the same. Clearly, the Patent Office has addressed the issue of enablement in the past and has determined that the specification is enabling for not only analog molecules but for conjugates of analog molecules.

In order to provide complete response to the issues raised in the Office Action, Applicants note that, regarding the analog molecule portion of the conjugates, the Office Action specifically discusses the following three factors in determining enablement:

(1) The Office Action states that "...there is insufficient guidance as to the structure of the "analog molecules" without specific amino acid sequences..." (page 5, second paragraph lines 2-3). Further, that "Without the amino acid or the nucleic acid sequence, the analog molecule has no structure, much less function." (page 5, second paragraph lines 4-5).

(2) The discussion at the bottom of page 5 and top of page 6 appears to be directed to the level of predictability in the art. This portion of the Office Action asserts that "Ngo *et al* teach that the amino acid positions within the polypeptide/protein that can tolerate change such as conservative substitution or no substitution, addition or deletion which are critical to maintain the protein's structure/function will require guidance...", and that "Abaza *et al* teach that even a single amino acid substitution outside the antigenic site can exert drastic effects on the reactivity of a protein with monoclonal antibody against the site...". The Office Action further asserts that "...the specification fails to provide guidance regarding which amino acids within the particular portein, polypeptide, peptide, lipid, lipoprotein of the immunogen after modification still binds to surface antibody on B cell that lacks T cell epitope...".

(3) The Office Action asserts "Given the indefinite number of antibody-mediated pathology, there are insufficient in vivo working examples demonstrating that the claimed compositions can treat all antibody-mediated pathology..." (page 5, second paragraph lines 12-14). This analysis would seem to apply only to pending claim 49 to a method of treating antibody-mediated pathology.

Regarding the first assertion in the present Office Action summarized in paragraph (1) above, that there is insufficient guidance as to structure of the "analog molecules", Applicants note that the specification on page 18, lines 4-18 provides sufficient structure as follows:

(a) the analog molecules are of a certain class of molecules, such as polypeptides, carbohydrates, etc. (see lines 16-18).

The general structures of these classes of molecules are well known to a person of ordinary skill.

(b) the analog molecules are often a fragment or derivative of the immunogen (see line 7-9). Also, the analog molecule binds specifically to an antibody to which the immunogen binds specifically (see lines 5-6).

An immunogen is either of known structure or can be readily determined by a person of ordinary skill in the art. Thus, the known immunogen structure can be used to derive the analog structure. Further, the analog molecule has the structure of the B cell epitope of the immunogen. The specification teaches a person of ordinary skill how to derive the appropriate structure of the analog from the immunogen.

(c) the analog is functionally limited in that it binds specifically to an antibody to which the immunogen binds specifically and lacks T cell epitopes (see lines 4-6).

This functional limitation is provided by a structural limitation, i.e. the structure associated with the B cell epitope and lacking the structure associated with the T cell epitope. Also, the specification on pages 26-28 teaches a person of ordinary skill how to identify the appropriate analog molecules. "A normal first step in identifying useful analogs is to prepare a panel or library of candidates to screen. For instance, in the case of protein or peptide analogs, libraries may be made by synthetic or recombinant techniques..." (specification page 27, lines 14-18). Further, "Analogs to such immunogens may be identified by screening candidate molecules to determine whether they (a) bind specifically to serum antibodies to the immunogen and (b) lack T cell epitopes...". Preparation and screening of such libraries, as described in the specification, requires only routine experimentation to a person of ordinary skill in the art.

The structure as discussed in (a)-(c) provides sufficient guidance to a person of ordinary skill to make and use the analog molecules of the presently claimed conjugates. Further, the specification provides some working examples that further aid a person of ordinary skill. In example 11, starting on page 116 of the specification, the mellitin molecule is the known immunogen from which Applicants derived the analog mellitin peptide which contains B cell epitope but lacks the T cell epitope. Further, U.S. Patent 6,060,056 Example 1 demonstrates analog peptide to the immunogen α-subunit of the acetylcholine receptor. In both of these, analog

peptides are screened as described in the specification to determine the peptides that have B cell epitopes but lack T cell epitopes.

The Office Action asserts, as mentioned in paragraph (2) above, the unpredictibility of amino acid modifications to polypeptides or proteins, and that the specification fails to provide guidance regarding which amino acids after modification still binds to surface antibody on B cell that lacks T cell epitope. As discussed above and demonstrated by the examples, the identity of the immunogen provides structure from which a person of ordinary skill in the art can modify a polypeptide and screen for the desired function. Predictibility of the effect of changes in amino acid structure (or any other structural changes to analog molecules) is unnecessary. Given the immunogen, a suitable library of a variety of peptides (or suitable library of the class of compounds of the analog structure) can be prepared and routinely screened to select the desired analog peptides (i.e. those having a structure that maintains the B cell epitope but lacks T cell epitope). It is not necessary to predict what effect any changes may have, as this is readily determined by the routine screening assays. The screening methods provide a person of ordinary skill with the tools to identify and select the appropriate analog molecule without undue experimentation.

The Office Action asserts, as mentioned in paragraph (3) above, that there are insufficient in vivo working examples demonstrating the claimed compositions can treat all antibody-mediated pathology. This contention appears to be relevant to claim 49 to a method of treating antibody-mediated pathology. Applicants point out that the claim is limited to treating antibody mediated pathologies in which undesired antibodies are produced in response to a T cell dependent immunogen. The specification teaches that the analogs of the invention can be used to induce B cell anergy to a particular immunogen, and are therefore useful in treating antibody mediated pathologies, and have demonstrated this with a working example for mellitin conjugates. Further, one of the parent applications incorporated by reference, U.S. Patent 6,060,056, provides a working example using an analog of acetylcholine receptor (column 7, example 1). While this example did not use a chemically defined valency platform molecule to form the conjugate, it supports the use of analog molecules to induce B cell anergy. These demonstrate that analog molecule conjugates are useful for treating antibody mediated pathologies as claimed. The Manual of Patent Examining Procedure, Eighth Edition, §2164.04 indicates:

> "In order to make a rejection, the examiner has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention. *In re Wright*, 999 F.2d 1557, 1562, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993) (examiner must provide a reasonable explanation as to why the scope of protection provided by a claim is not adequately enabled by the disclosure). A specification disclosure which contains a teaching of the manner and process of making and using an invention in terms which correspond in scope to those used in describing and defining the subject matter sought to be patented must be taken as being in compliance with the enablement requirement of 35 U.S.C. 112, first paragraph, unless there is a reason to doubt the objective truth of the statements contained therein which must be relied on for enabling support...."it is incumbent upon the Patent Office, whenever a rejection on this basis is made, to explain why it doubts the truth or accuracy of any statement in a supporting disclosure and to back up assertions of its own with acceptable evidence or reasoning which is inconsistent with the contested statement..."".

The Office Action states that there are insufficient working examples demonstrating that the claimed compositions can treat all antibody mediated pathology, without providing any reasons to support this statement. The specification teaches that the analog conjugates are useful for treating antibody mediated pathology in which antibodies are produced in response to a T cell dependent immunogen. The specification further provides examples of analog molecules to support this teaching. The Office Action does not provide any reason to doubt this teaching of the specification.

In addition, the Office Action states on page 6, presumably with respect to claim 49:

> "Until the analog molecules of immunogen that bind specifically to antibody on B cell associated with which particular antibody mediated pathology have been identified, the method of treating all antibody-mediated pathology is not enabled. Likewise, the method of inducing B cell anergy to all T cell-dependent immunogen is not enabled. For these reasons, it would require undue experimentation of one skilled in the art to practice the claimed invention. See page 1338, footnote 7 of Ex parte Aggarwal, 23 USPQ2d 1334 (PTO Bd. Pat App. & Inter. 1992)."

In stating that until the analog molecules of immunogen are identified, the method is not enabled, the Office Action seems to indicate that if the analog molecules that bind specifically to antibody on B cell associated with a particular antibody mediated pathology have been identified, the method of treating all antibody mediated pathology would be enabled. This agrees with the teaching of the specification that such analogs are useful for the treatment of antibody mediated pathologies of the claim. It would appear that if identification of the analog is considered to be enabled, then the method of treatment is enabled. As discussed above, Applicants suggest that the conjugates as claimed are enabled and therefore the method of use claims are enabled.

Applicants would again like to point out U.S. patents 5,268,454 and 6,060,056, discussed above. The Examiner in these cases determined that the analog molecule is enabled. The disclosure of U.S. Patent 6,060,056 is incorporated by reference into the present application, and the description of the analog molecules is essentially the same. Clearly, the Patent Office has addressed the issue of enablement in the past and has determined that the specification is enabling for not only analog molecules but for conjugates of analog molecules.

In summary, Applicants have indicated:

(1) Issued U.S. patents have determined that the scope of analog molecules in conjugates are enabled;

(2) Improved valency platform molecules that are chemically defined are described such that a person of ordinary skill knows how to make them and conjugate them to the analog molecules of the issued patents.

(3) The structure of the analog molecule is provided by its being a peptide, lipid, carbohydrate, etc., which have general structures known to one of ordinary skill in the art;

(4) Additional structure of the analog molecule is provided in that it is related to the immunogen in that it is often derived from or is a fragment of the immunogen, and it contains the B cell epitope of the immunogen; and

(5) This provides sufficient structure to one of ordinary skill to prepare and screen libraries to identify appropriate analog molecules.

For the reasons discussed above, Applicants respectfully request that the examiner withdraw the rejection.

Claims 22-27, 29-35, 37, 38, 42, 43, 46 and 48-51 are rejected under 35 USC 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection. The Manual of Patent Examining Procedure, Eigth Edition, §2163 (II.A.3) states "The analysis of whether the specification complies with the written description requirement calls for the examiner to compare the scope of the claim with the scope of the description to determine whether applicant has demonstrated possession of the claimed invention." The Office Action states "The

specification does not reasonably provide a written description of all (1) "analog molecules", (2) *all* analog molecule is any external immunogen such as *any* allergens, *any* peptides, etc." (page 6, beginning of last paragraph). The description of analog molecule on page 18 describes a molecule that (a) binds specifically to an antibody to which the immunogen binds specifically and (b) lacks T cell epitopes and may be a protein, carbohydrate, etc. This adequately describes any analog to any immunogen and may be any protein analog, etc., as long as it has the features of (a) and (b). The Office Action later asserts "With the exception of the specific mellitin peptide analog molecule from bee venom allergen conjugated the specific valency platform molecule having the specific formula in the claimed composition, there is inadequate written description about the structure associated with function of the other "analog molecules" without the amino acid sequence, much less which analog molecules binds to the surface of B cell and lack T cell epitopes." (page 7, beginning of second full paragraph). Applicants suggest that this statement may be confusing the written description requirement with the enablement requirement. For example, the description of analog molecules indicates that the analog molecule binds specifically to an antibody to which the immunogen binds specifically and lacks T cell epitopes. That is the scope of what applicants are claiming. The very words used in the claim are present in the specification, and therefore the analog molecules are described in the specification. The Examiner's statement that "there is inadequate written description about the structure associated with function of the other "analog molecules" without the amino acid sequence, much less which analog molecules binds the surface of B cell and lack T cell epitopes" may possibly be relevant to enablement, as the Examiner has asserted in the enablement rejection discussed above. However, adequate written description is provided. Firstly, not all analog molecules are proteins and therefore would not necessarily have an amino acid sequence. Secondly, **all** analog molecules have B cell epitopes of the immunogen and lack T cell epitopes, as that is how analog molecules are defined.

The Office Action further asserts "The specification discloses only non-polymeric valency platform molecule having the formulae defined on pages 4 and 7." Applicants have fully described the chemically defined valency platform molecules as claimed. Firstly, the formulae on pages 4 and 7, as well as those on page 12, support the claims. For example Z in formula 2 (page 4) can be a branching group. Similarly formula 7 (page 12) indicates, for example, branching groups $N[Q[7](T[7])]_2$. Further, the components of the formulae are chemically defined, such that the

resulting structures have defined molecular weight such that a plurality would have substantially homogeneous molecular weight. Further, the number of attachment sites (T) are specifically defined by the formula, and are preferably at the same location. For example, in formula 2, when G[2] is $-CH_2(CH_2OCH_2)_rCH_2-$, (page 4, line 34), L is O (page 6, line 25), J is C(=O) (page 6 line 27), all Z are identical (page 7, lines 11-12) and all T are identical (page 6 lines 1-3), the attachment sites are all at the same location. The disclosure of chemically defined valency platform molecules is more generally described on page 19, line 14 through page 20, line 9 as follows:

> "The valency of a chemically-defined valency platform molecule within the present invention can be predetermined by the number of branching groups added to the platform molecule. Suitable branching groups are typically derived from diamino acids, triamines, and amino diacids....They provide a non-immunogenic, non-toxic polyfunctional substrate to which a multiplicity of biological or chemical molecules such as polynucleotide duplexes may be attached covalently. They will normally have an average molecular weight in the range of about 200 to about 200,000, usually about 200 to about 20,000, and are homogeneous as compared to the prior art polymers which are a mixture of compounds of widely fluctuating molecular weight. Examples of particularly preferred, homogeneous valency platform molecules within the present invention are derivatized 2,2'-ethylenedioxydiethylamine (EDDA), triethylene glycol (TEG) and polyethylene glycols (PEGs) having a molecular weight of about 200 to about 8,000."

Note that this generically describes any branching group. The disclosure also indicates that these are homogeneous with respect to molecular weight. Note that the examples include derivatized polyethylene glycol (a polymer), such that the valency platform molecules are not limited to being non-polymeric as suggested by the Office Action. Therefore, with respect to the chemically defined valency platform molecule, the specification supports that the inventors had possession of the claimed invention at the time of filing the application.

Applicants again would also like to point out U.S. Patents 5,268,454 and 6,060,056, the disclosure of the latter being incorporated by reference into the specification of the present invention. The issuance of claims of similar scope with respect to the analog molecules, as discussed above, demonstrates that the Patent Office has addressed the issue of written description for the analog molecules in the past and has determined that the specification provides adequate written description for not only analog molecules but for conjugates of analog molecules. The scope of the analog molecules in these issued claims is commensurate with the scope of the

presently pending claims, and they are supported by essentially the same disclosure as it relates to the analog molecules. In light of these issued claims and the arguments herein above, Applicants suggest that the specification supports that the inventors had possession of the scope of analog molecules as claimed at the time of filing the application. As such, along with the arguments relating to the chemically defined valency platform molecule, the inventors had possession of the full scope of the pending claims at the time of filing the application. Applicants respectfully request that the examiner withdraw the rejection.

REJECTIONS UNDER 35 USC 112, SECOND PARAGRAPH

Claims 22-27, 29-35, 37, 38, 42, 43 and 46 are rejected under 35 under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action indicates that "a plurality of a conjugate" in claim 22 is ambiguous and indefinite because plurality means more than one conjugates. Applicants respectfully disagree with the assessment that this language is ambiguous. While it is agreed that a plurality means more than one, this is clearly the intent of the phrase, which is clear and definite. In other words, a plurality of a conjugate means conjugates, and the claim is to a composition comprising conjugates. The language "a plurality of a conjugate" is used to simplify the claim in terms of how a conjugate is defined.

The Office Action indicates that "valency platform molecules" in claim 22 lines 11 and 13 in the plural is inconsistent with the singular used in line 5. Applicants have accordingly amended line 13. However, the language in line 11 is necessary to clearly define the limitation of homogeneous molecular weight. A single valency platform molecule has a definite molecular weight, such that a homogeneous molecular weight for a single molecule is simply stating an inherent feature. It is the homogeneity between the plurality of valency platform molecules of the composition that is being specified by the claim language. In other words, each of the valency platform molecules within a composition is of substantially the same molecular weight.

The Office Action indicates that "analog molecule" in claim 26 is inconsistent with "at least two analog molecules" in the parent claim. Applicants have amended the claim to pluralize analog molecules.

The Office Action indicates that "valency platform molecules" in claim 27 is inconsistent with the singular form of the parent claim. Applicants have amended the claim to the singular.

Based on the claim amendments and arguments presented, Applicants respectfully request that the examiner withdraw the rejection.

REJECTIONS UNDER 35 USC 102(e)

Claims 22-27, 29-35, 37, 38, 42, 43 and 46 are rejected under 35 under 35 USC 102(e) as allegedly being anticipated by U.S. Patent No. 6,060,056. Applicants are in the process of preparing a correction of inventorship for the pending claims. Applicants are in the process of contacting the necessary persons and the appropriate paperwork will be submitted once all of the necessary signatures have been obtained. The actual inventorship for the current application is Stephen Coutts, David Jones, Paul Barstad, Michael Iverson and Lin Yu. Claim 23 has been amended, with the subject matter to a branching group derived from a triamine being removed from claim 23. This subject matter is now claimed in new claim 52. Lin Yu's contribution to the claimed subject matter is solely to conjugates where the branching groups are derived from triamine, and he is therefore a joint inventor with respect to claim 52 only. The 102 (e) rejection is based on the disclosure of mellitin conjugates to a valency platform molecule that comprises branching groups derived from a diamino acid (Figure 11, see also, for example, U.S. patent 6,060,056 column 13 and 14 indicating the synthesis of the platform molecule). This disclosure does not anticipate the conjugates of claim 52, as the branching group is derived from a diamino acid, not a triamine. Thus, 35 U.S.C. 103(c) provides that this reference can not be used for rejection of this claim for obviousness.

For the remaining claims, the 102(e) reference is not "by another" since Lin Yu contributed only to the subject matter of claim 52. Therefore, Applicants respectfully request that the examiner withdraw the rejection.

OBVIOUSNESS DOUBLE PATENTING

Claims 22-27, 29-35, 37, 38, 42, 43, 46 and 48-51 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16, 6, 7, 9, 10, 12, 13, 14, 15, 16, 17 and 18 of U.S. Patent No. 6,060,056. Applicants respectfully traverse this rejection. While the claims of U.S. patent 6,060,056 may dominate the pending claims, the pending

claims are patentably distinct. There is nothing in the claims of the '056 patent that would point to the conjugates of the pending claims, where the chemically defined valency platform molecule comprises branching groups, a specific number of attachment sites at the same location, and a substantially homogeneous molecular weight. That a patent is dominating the pending claims should not be confused with double patenting. See Manual of Patent Examining Procedure, Eigth Edition, §804 (II). "One patent dominates a second patent or application when the first patent or application has a broad or generic claim which fully encompasses or reads on an invention defined in a narrower or more specific claim in another patent or application. Domination by itself, i.e., in the absence of statutory or nonstatutory double patenting grounds, cannot support a double patenting rejection." The Office Action merely indicates that the issued patent reads on the pending claims and that if the pending claims were to issue, they would anticipate the claims of the existing patent. No reason has been provided as to why a person of ordinary skill in the art would conclude that the invention of the pending claims is an obvious variation of the invention defined in the claims of U.S. patent 6,060,056. Applicants respectfully request that the examiner withdraw the rejection.

REJECTION UNDER 35 USC 103(a)

Claims 22-27, 29-35, 37, 38, 42, 43 46 and 48-51 are directed to an invention not patentably distinct from claims 13, 6, 7, 9, 10, 12, 13, 14, 15, 16, 17 and 18 of commonly assigned U.S. Patent No. 6,060,056. As discussed with respect to the obviousness-type double patenting rejection, Applicants believe the pending claims are patentably distinct from the claims of U.S. Patent 6,060,056. The Office Action further indicates that the commonly assigned patent would form the basis for a rejection under 35 U.S.C. 103(a) if the commonly assigned case qualifies as prior art under 35 U.S.C. 102(f) or (g). Applicants concurrently are submitting a statement indicating common ownership of the issued patent and currently pending claims at the time the invention of the currently pending claims was made.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims, rejoin the withdrawn claims and pass this application to issue. Applicants respectfully request that prior to issuing any additional rejection of the pending claims that the Examiner provide a telephone interview with the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicants petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no.252312005706. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated:

Respectfully submitted,

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